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In re Application : **OFFICE OF PETITIONS**
Boronkay, et al. :
Application No. 09/894,985 : PATENT TERM ADJUSTMENT
Filed: June 27, 2001 :
Dkt. No.: IMMR-VTI0017A :

This is a decision on the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT," filed December 20, 2004. This request is being treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 287 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A review of the application history reveals that an adjustment of 282 days under 37 CFR 1.702(a)(1) was attributable to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began August 28, 2002, the day after the date that is fourteen months after the date on which the application was filed, and ended June 5, 2003, the date the non-final Office action was mailed.

The Office errantly entered February 19, 2002 as the date a reply to the Notice to File Missing Parts of Nonprovisional Application was filed rather than January 10, 2002, the date the response was in fact received.

Accordingly, the adjustment of 282 days is reduced 49 days, rather than 89 days, in accordance with 37 CFR 1.704(b). The reduction began November 23, 2001, the day after the date that is three months after the date of mailing of the Notice to File

Missing Parts of Nonprovisional Application, and ended January 10, 2002, the date the reply was submitted.

The Office errantly entered December 9, 2003 as the day a response to the non-final Office action was submitted rather than September 4, 2003, the date the response was timely received as evidenced by the copy of the stamped and dated postcard evidencing receipt of the response by the Office.


As a response to the non-final Office action was timely submitted September 4, 2003, an additional adjustment of 54 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2). The delay began January 5, 2004, the day after the day that is four months after the date the response to the non-final Office action was submitted, and ended February 27, 2004, the date the final Office action was mailed. See, 37 CFR 1.703(a)(2).

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 287 days.

The required application fee of \$200.00 has been charged to Deposit Account No. 50-1283.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.


Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation